

EXHIBIT 1

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

ORIGINAL

4 -----x

5 PLAINTIFFS #1-21, individually
6 and on behalf of all others
7 similarly situated,

8 Plaintiff,

Case No.

9 -against-

15-CV-2431(ADS)

10 THE COUNTY OF SUFFOLK; SUFFOLK
11 COUNTY POLICE DEPARTMENT COMMISSIONER
12 EDWARD WEBBER, individually and in
13 his official capacity; SUPERVISORY
14 JOHN DOE DEFENDANTS, individually
15 and in their official capacities;
16 LIEUTENANT MILAGROS SOTO,
17 individually and in her official
18 capacity; SCOTT GREENE, individually
19 and in his official capacity;
20 OFFICER BRIDGET DORMER, individually
21 and in her official capacity;
22 JOHN DOE DEFENDANTS, individually
23 and in their official capacity,

24 Defendants.

25 -----x

225 Eastview Drive
Central Islip, New York

December 21, 2017
9:36 a.m.

DEPOSITION OF MICHAEL CALDARELLI

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DEPOSITION of MICHAEL CALDARELLI,
taken by Plaintiff, pursuant to Notice, held
at the above-mentioned time and place,
before Robin LaFemina, a Registered
Professional Reporter, Certified LiveNote
Reporter and Notary Public within and for
the State of New York.

A P P E A R A N C E S:

SHEARMAN & STERLING LLP
Attorneys for Plaintiffs
599 Lexington Avenue
New York, New York 10022

BY: JAMES ALICEA, ESQ.

LATINO JUSTICE PRLDEF
99 Hudson Street
New York, New York 10013

BY: JOSÉ LUIS PEREZ, ESQ.

JOANNA E. CUEVAS INGRAM, ESQ.

NATHALIA A. VARELA, ESQ.

SUFFOLK COUNTY ATTORNEY'S OFFICE
Attorneys for Defendants
H. Lee Dennison Building, 6th Floor
100 Veterans Memorial Highway
Hauppauge, New York 11788-4311

BY: MEGAN O'DONNELL, ESQ.

ALSO PRESENT:

MILAGROS SOTO

--oo0oo--

1 Caldarelli

2 A. Yeah. Actually at that time and
3 during my entire tenure there, Internal
4 Affairs was reporting to Chief White, and
5 they explained to me that they had some
6 concerns about the way things were going in
7 Internal Affairs, namely, the two big
8 concerns were that the cases -- that they
9 were losing the ability to discipline people
10 in cases because the 18 month statute of
11 limitations was expiring, and they also had
12 concerns that the evidence in cases was not
13 consistent with the findings in cases.

14 Q. Did they I guess critique your
15 predecessor or fault or give any reasons why
16 they had these concerns?

17 A. No. As a matter of fact, I was
18 kind of concerned because I always found
19 Stanley to be -- you know, I like Stanley, I
20 consider him a friend, and exactly where the
21 disconnect is because, I mean, I know Mark
22 White also very well and I always found him
23 an easy guy to work with. What had happened
24 there, I don't know.

25 Q. Did they give any indication

1 Caldarelli

2 that it was a lack of resources or staffing?

3 A. Yes. Well, they did -- they did
4 say that we realize the unit is not adequately
5 staffed, and --

6 Q. When you say they, who was that?
7 Was it Burke or White who was saying this?

8 A. I guess you can generally say --

9 Q. Collectively?

10 A. -- it was the three of them; yes.

11 And both they and then at a later date
12 Commissioner Webber had said that they were
13 intending to transfer an additional five
14 lieutenants to the unit.

15 Q. So was that something that was
16 told to you at this meeting or --

17 A. Very --

18 Q. -- that the plan was --

19 A. Very early on; yes.

20 Q. That the plan was to reassign
21 additional investigators?

22 A. Yes. There was a concession I
23 guess in this meeting that we realize you
24 need help up there.

25 Q. So you were given I guess for

1 Caldarelli
2 lack of a better word a mandate to kind of
3 like, I don't know, tighten up investigations
4 and comply with time constraints?

5 A. I would say that's fair; yes.

6 Q. And in essence also engage in
7 quality control in terms of what you
8 mentioned about the findings being consistent?

9 A. I think that's fair.

10 Q. You were talking about this 18
11 month period for having I guess cases
12 resolved or recommendations closed, not
13 closed, but recommendations made so that if
14 appropriate disciplinary action could be
15 taken against an officer?

16 A. Correct.

17 Q. Were there any instances cited
18 to you about cases where that had not been
19 done or cases had not been closed or moved
20 forward within this 18 month period?

21 A. Well, I know that there were a
22 few cases where we did not have the ability
23 to, you know, discipline people because the
24 18 months had lapsed. In terms of number,
25 difficult for me to say.

1 Caldarelli

2 Q. When you say, you know, that
3 this had happened -- had this happened prior
4 to your arriving there or during your tenure
5 at IAB that, you know, again cases had
6 been -- could not move forward because the
7 18 month period had lapsed?

8 A. Cases still moved forward, but
9 any substantiated findings would be precluded
10 from taking department disciplinary action.

11 Q. And what would happen in those
12 cases? They would just be placed in the
13 officer's file, personnel file?

14 A. Yes. They would be documented,
15 notice would be made, it would be posted in
16 the BlueTeam as well as in the hard copy of
17 the case.

18 Q. But no formal disciplinary
19 action would be taken?

20 A. Yes. Correct.

21 Q. And this 18 months, was this
22 pursuant to I guess, I don't know, collective
23 bargaining or civil service or --

24 A. It's my understanding, sir, it
25 actually stems from I think it's New York

1 Caldarelli

2 State law.

3 Q. Okay.

4 A. Whether it's labor law or the
5 executive law, I'm not sure.

6 Q. And, again, did they give you
7 any indication about how widespread or how
8 prevalent this problem was of cases going
9 beyond the 18 month period?

10 A. Well, let's put it this way.
11 Obviously it was enough of a problem that
12 it, you know, had their attention and it was
13 something that they wanted addressed.

14 Q. Do you know how this came to
15 their attention? Was there any type of
16 internal review, audit?

17 A. They didn't exactly explain to
18 me what brought it to their attention.

19 Q. Did there come a time after that
20 meeting with Burke and Meehan and White that
21 you learned of the reason why this had become
22 a concern?

23 A. I'm sorry?

24 Q. Did there come a time after that
25 meeting that you learned why or how this had

1 Caldarelli

2 come about?

3 A. Well, immediately upon going
4 into the unit, you know, some of the problems
5 were apparent, you know.

6 Q. For example?

7 A. Well, the caseload was far too
8 heavy.

9 Q. Per investigation, connected
10 with the staffing issue?

11 A. Correct. Yes.

12 Q. So when you say the caseload was
13 too heavy, how many cases was each assigned
14 correct or handling?

15 A. I think at that time, if memory
16 serves me correctly, there were
17 approximately 15 to 16, somewhere 15 and
18 change that each investigator was carrying.

19 Q. And what would have been the
20 appropriate, I don't know if there is a
21 guideline or like the amount, active number
22 of cases any one investigator should have?

23 A. Well, let's put it this way. I
24 was an investigator in Internal Affairs in
25 the late 1990s, and when I was there, I was

1 Caldarelli
2 a lieutenant, I don't think I ever carried
3 more than 10 or 12 cases at a time
4 approximately. That was a reasonably
5 manageable caseload I thought. So I would
6 have liked to have gotten it down to that.

7 Q. Going to when you were appointed,
8 promoted to lieutenant, was that after you
9 went to Internal Affairs, was that after you
10 had been a patrol sergeant?

11 A. Correct.

12 Q. And when did you go to Internal
13 Affairs?

14 A. It was in 1997.

15 Q. And, again, you were promoted to
16 lieutenant as a result of a civil service
17 exam?

18 A. Correct.

19 Q. And upon being promoted to
20 lieutenant, were you then reassigned from
21 the precincts you were to Internal Affairs?

22 A. Correct.

23 Q. How long were you at Internal
24 Affairs at that time?

25 A. I think it was a little less

1 Caldarelli

2 than three years, maybe two and a half years.

3 Q. And is that the normal, I
4 don't know, is there a normal way of how
5 investigators are assigned to Internal
6 Affairs? Is it upon being promoted, that
7 that's one of the options?

8 A. Yes. I think two years was
9 considered like, you know, a stint, if you
10 will.

11 Q. And who was the commanding
12 officer of IAB at the time?

13 A. At the time when I first went
14 there?

15 Q. Yes.

16 A. Jack Henry.

17 Q. Henry?

18 A. Henry, common spelling.

19 Q. Did he remain the commanding
20 officer during your entire tenure at that
21 time?

22 A. No. He retired at some point
23 during my initial tenure there.

24 Q. And who replaced him?

25 A. Philip Robilitto.

1 Caldarelli

2 Cameron.

3 Q. Steve --

4 A. Stu --

5 Q. Stu?

6 A. Stuart Cameron. He is the
7 current chief of the Department.

8 Q. And was the planning community
9 department, was that also -- was that within
10 police headquarters?

11 A. It's located in police
12 headquarters; yes.

13 Q. Same floor as the Commissioner
14 or the chiefs?

15 A. Correct.

16 Q. Okay.

17 I take it in the Commissioner's
18 office, you were on the same floor as the
19 Commissioner or the Chief?

20 A. Yes.

21 Q. How would you describe your
22 relationship with Commissioner Webber -- I
23 mean Chief Webber -- I mean Commissioner
24 Webber?

25 A. Initially it was good. It

1 Caldarelli

2 became strained.

3 Q. When did it become strained?

4 A. Sometime during my tenure as the
5 CO of Internal Affairs.

6 Q. And what precipitated or caused,
7 in your opinion, the strain?

8 A. I was substantiating too many
9 allegations in some people's minds.

10 Q. Did Commissioner Webber ever say
11 that to you directly?

12 A. No.

13 Q. Did Chief Burke ever say that to
14 you directly?

15 A. No.

16 Q. Chief White?

17 A. Yes. Let me clarify though.

18 White told me some people think you're
19 substantiating too many cases, he said he
20 himself and the Commissioner were not among
21 them though.

22 Q. White said that he and the
23 Commissioner were not?

24 A. Were not amongst those voices.

25 Q. So if the Commissioner was not

1 Caldarelli
2 among those who thought that, why did your
3 relationship become strained?

4 A. Well, basically I think the real
5 wedge finally came with another case,
6 totally unrelated to this one.

7 Q. And what was that case?

8 THE WITNESS: Can I say?

9 MS. O'DONNELL: Is it current --
10 is it under pending investigation?

11 THE WITNESS: Possibly.

12 MS. O'DONNELL: From what I
13 understand, that the case that he is
14 referring to is under current
15 investigation. Based on this witness's
16 testimony that it has nothing to do
17 with this case, I would instruct him
18 not to identify that case, but I
19 have -- I understand the relevancy
20 perhaps to the relationship that he had
21 with Commissioner Webber, so I have --
22 I'm not instructing him not to answer
23 questions about his relationship with
24 Webber, but just identifying the
25 particular case based on the current

1 Caldarelli
2 criminal investigation.

3 MR. PEREZ: Yes.

4 Q. Without jeopardizing any
5 criminal investigation or identifying any
6 specific individuals, what was the nature of
7 this other case?

8 A. Bear with me. I'm going to take
9 my time because I want to make sure I don't
10 do anything that might cause problems for
11 any other entities.

12 There was a significant case, a
13 high profile case, received a lot of media
14 attention, and I found significant problems
15 with the people's conduct involved and I
16 reported as much. Sometime after I submitted
17 the case, I received a phone call from
18 Webber. He informed me that he did not
19 agree with my conclusions. He made it sort
20 of a collective like we've reviewed your
21 case and we don't agree with it. He said he
22 was going to have Chief Madigan who was the
23 Chief of Detectives at that time discuss the
24 problems with the case and the changes that
25 they wanted made.

1 Caldarelli

2 Q. Had you I guess in that
3 investigation substantiated allegations,
4 whatever they were?

5 A. Correct.

6 Q. And you made that recommendation
7 and put it in writing and submitted it to
8 the Commissioner?

9 A. Correct.

10 Q. And that's normal protocol?

11 A. Yes.

12 Q. As was done in the Greene case?

13 A. Yes.

14 Q. I think at one point Lieutenant
15 Corsino submitted a report to you, at some
16 point during the end of your tenure which I
17 think subsequent to your departure was
18 forwarded, or --

19 A. Getting a little off topic, I
20 don't think the report ever reached me.

21 Q. All right.

22 So you may not have seen the
23 Greene report?

24 A. I don't think I did.

25 Q. We will show that to you and see

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Caldarelli

if you recall that. But typically the investigator would prepare a report with his findings and recommendations substantiated or unsubstantiated and that would go to the commanding officer for review, you would make a determination, concur or not --

A. Correct.

Q. -- and then pass that along to --

A. Correct.

Q. So this -- and so Commissioner -- and so in this case you did substantiate -- were these findings that you made or you were upholding or corroborating or supporting the findings made by your investigator?

A. No. I overruled the investigator.

Q. How often had you had occasion to do that?

A. It would happen on occasion. By and large in the vast majority of the time when I disagreed with the conclusions that my investigators found, I would sit down with them and discuss them, I would ask them tell me what leads you to this conclusion, and then I would say, well, listen, I differ

1 Caldarelli

2 with you, if I in fact differed with them,
3 and then I would say, well, here's how I see
4 it, and I would give them the option. I'm
5 not going to tell you what to write, it's
6 your report, your name's going on it.
7 However, I don't agree with you and I'm
8 going to say so in print. And if I thought
9 their reasoning was so egregiously wrong, I
10 would actually say to them I don't think the
11 bosses are going to see it my way, they're
12 going to see it your way and you're going to
13 look foolish in the process. I said I think
14 this is the right way to do this. I leave
15 it to you though. If you're not comfortable
16 making those changes, okay.

17 Q. And did you do that in the case
18 that's the subject of the question --

19 A. What happened in that case is I
20 basically -- I wrote a very lengthy cover
21 report, which was in fact really the case at
22 the end of the day.

23 Q. And is that unusual, that you
24 would write a separate cover memo?

25 A. It should be. It should be. I

1 Caldarelli
2 found though that I did do it fairly
3 frequently when I was the CO of Internal
4 Affairs.

5 Q. Okay.

6 And was that part of the problem
7 that you heard from I guess Chief White that
8 others thought that you were doing it I
9 guess too often or substantiating or
10 overruling your own investigators?

11 A. I think that that might have
12 been part of the problem, but ultimately the
13 streamline format to fill in the blanks I
14 think did help in that respect, and that
15 just enabled me to sign off on reports
16 saying I concur, which is really all I
17 should have been doing, but yeah, in this
18 particular case, no, I had written a rather
19 lengthy report of what I believed to be the
20 correct, you know, way to present the case
21 and the correct findings in the case.

22 Q. Okay.

23 And you mentioned again that you
24 thought like your relationship with
25 Commissioner Webber had become strained.

1 Caldarelli

2 Like what, can you give me an example of
3 what leads you to that conclusion?

4 A. Well --

5 Q. Did he treat you differently
6 afterwards or --

7 A. I would say what basically had
8 happened is this was one case of -- maybe a
9 couple where there was some significant
10 problems, in my opinion, and --

11 Q. Problems within the Department
12 or the investigation or how -- I'm sorry.

13 A. Just to clarify, problems with
14 the police conduct involved. And I set forth
15 my opinions on it, my findings clearly, and
16 basically, you know, I don't think it was
17 well received.

18 MS. O'DONNELL: I don't think
19 what? I just didn't hear the --

20 THE WITNESS: It wasn't well
21 received.

22 Q. Did you ever get indications
23 from anyone else I guess that your actions
24 as commanding officer or that too many
25 complaints were being substantiated or that

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Caldarelli

you were overruling, did you ever hear from
anyone else or get feedback that they were
unhappy or --

A. Yes.

Q. -- displeased with that?

A. Yes.

Q. And how did you hear of that?

From whom?

A. People I knew from the Department
of similar rank, you know.

Q. Other inspectors or I guess --

A. Yes.

Q. -- deputy inspectors?

A. Yes.

Q. That would be considered your
peers?

A. Yes.

Q. Was this like, I don't know,
scuttlebutt or --

A. I guess you could call it that.

Q. -- gossip or --

A. Yes.

Q. That you -- was it widely known
that you had fallen out of I guess disfavor

1 Caldarelli

2 with the Commissioner's office or --

3 A. I think you could safely say
4 that.

5 Q. And that was again you believe
6 one of the reasons why you were transferred
7 out of --

8 A. I'm certain of it.

9 Q. -- Internal Affairs?

10 A. Yes.

11 Q. You mentioned that you retired
12 earlier this year. Was that a voluntary
13 retirement?

14 A. I was not pressured into retiring.

15 Q. Okay.

16 How many years on the job did
17 you have?

18 A. A little over 31.

19 Q. So you vested your pension and
20 everything?

21 A. Not fully.

22 Q. Not fully?

23 A. No.

24 Q. But you decided to retire?

25 A. Yes.

1 Caldarelli

2 Q. Why?

3 A. I had it.

4 Q. Had it with -- can you explain
5 what you mean by that?

6 A. I was disgusted with the
7 Department.

8 Q. Why were you disgusted?

9 A. Because of some of the things
10 we're discussing here, sir.

11 Q. Did you know whether anyone had
12 been transferred out of Internal Affairs
13 similar to you?

14 A. Yes.

15 Q. Who?

16 A. Joe Capolino, my XO.

17 Q. And where did he go?

18 A. I believe it was the 4th Precinct.

19 Q. And is he a deputy inspector
20 still or inspector, do you know?

21 A. To the best of my knowledge, but
22 I'm out of touch.

23 Q. What was his last command or
24 rank?

25 A. He was working in the Chief of

1 Caldarelli

2 without necessarily remembering the --

3 Q. The complainant?

4 A. Right. The race of the
5 complainant.

6 Q. Okay.

7 A. It's possible certainly. I
8 can't recall though at this point any one
9 particular name that comes out.

10 Q. Okay.

11 And, again, kind of this
12 pushback, so other than I think you
13 mentioned I think it was Chief White had
14 kind of let you know that, you know, there
15 were others who felt that in fact you were
16 substantiating too many complaints, did he
17 ever indicate like who the others were?

18 A. No. No, he did not mention
19 anyone by name.

20 Q. Did you have your own suspicions
21 or feelings of who you thought the others
22 were?

23 A. Yes.

24 Q. And who did you feel or believe
25 were the others?

1 Caldarelli

2 A. My opinion was that Burke,
3 Madigan and Meehan were aligned, Webber,
4 White and Fallon were aligned on the right
5 side of things.

6 Q. So the first faction, Madigan,
7 Meehan and Burke?

8 A. Yes.

9 Q. Were aligned you say on the
10 other side?

11 A. Yes.

12 Q. And this is the Chief Burke who
13 is now currently incarcerated?

14 A. It is.

15 Q. Do you know if -- is it Chief
16 Meehan?

17 A. Yes.

18 Q. And is he still on the job?

19 A. No. He's retired, as is Madigan.

20 Q. And the other ones you mentioned
21 were Commissioner Webber, Chief White and
22 who was the third person?

23 A. Kevin Fallon.

24 Q. Kevin Fallon. And who was Kevin
25 Fallon? What was his title?

1 Caldarelli

2 A. He was a chief.

3 Q. Did any of the first three,
4 Burke, Meehan or Madigan, ever confront you
5 or tell you to chill out or, you know, why
6 are you hanging cops out to dry?

7 A. I wasn't hanging out cops to
8 dry. Cops were hanging cops out to dry.

9 Q. No, I get that, but, I mean, did
10 they ever accuse you or say or do anything
11 that gave you that impression?

12 A. Basically Madigan, that one
13 case, and, again, I have to -- I'm going to
14 tread very lightly here, but when he spoke
15 to me --

16 Q. That's the one that you
17 mentioned I believe is still pending or
18 under investigation?

19 A. I believe it's possibly, I don't
20 have access to all the details on that, but
21 yeah, that was one where he was clearly
22 displeased with, you know, my findings on
23 that case. Meehan at one point had stopped
24 in my office and he actually said to me, he
25 goes, you're substantiating a lot of cases,

1 Caldarelli

2 Mike, do you have any idea what your ratio
3 is like compared to New York City? I didn't.

4 Q. That was not a factor for you,
5 right, comparing to what other police
6 departments did?

7 A. It's what it is; yeah.

8 Q. Did he ever say what the ratio
9 was --

10 A. I don't think he knew himself.
11 I guess you could figure it out, you know.
12 I mean, I guess you could, but I would think
13 you would have better things to do. I know
14 I did.

15 Q. Other than this conversation,
16 I guess this conversation with Chief Meehan,
17 was this just in passing, or you said he
18 came into your office?

19 A. Yes. He would stop in and see
20 me occasionally.

21 Q. Was your office again on the
22 same floor as the Commissioner or headquarters
23 or same building?

24 A. Yes. Same building as the
25 Commissioner, same building as the chiefs.

1 Caldarelli

2 Q. Different floor?

3 A. No. Same floor.

4 Q. All the chiefs.

5 How did that comment make you
6 feel from Chief Meehan?

7 A. Well, I took it as an indication
8 that there was disapproval in some circles
9 as to what I was doing, but, you know, but
10 so be it.

11 Q. Do you recall when that
12 conversation took place?

13 A. I'm sorry, I don't. It was
14 probably sometime in 2013 I would think.

15 Q. So it would have been like a
16 year before you eventually left?

17 A. Yes.

18 Q. You left in October of 2014?

19 A. 2014; yes.

20 Q. Did there ever come a time in
21 cases where you had overturned the
22 investigating officer or substantiated
23 something that they had not where your
24 findings were subsequently reversed by
25 either a chief or the Commissioner?

1 Caldarelli

2 A. I don't know of that happening.

3 That conversation I had with Webber where he
4 told me that he disagreed with my --

5 Q. About this one particular --

6 A. Right. After I refused to make
7 the changes that were requested to be made
8 of me, I don't know what happened.

9 Q. Right. And I think you said in
10 that case he was assigning it to the Chief
11 of Detectives for further action or something.

12 A. He had assigned the Chief of
13 Detectives to discuss the matter with me. I
14 don't know if he assigned Madigan to
15 actually take action. I think, as I recall,
16 he said to me something like, all right,
17 Mike, I don't want to make you do anything
18 you don't want to do, I'll put something on
19 it or --

20 Q. So Burke said that? That was
21 Burke, not --

22 A. Webber.

23 Q. Oh, it was Webber, the
24 Commissioner?

25 A. Yes.

1 Caldarelli

2 Q. And Madigan was the Chief of
3 Detectives then?

4 A. Correct.

5 Q. So once you sent your report,
6 would you ever get something back like from
7 the Commissioner approved, disapproved or
8 concurred, not concurred?

9 A. All cases would have come back
10 to Internal Affairs; yes.

11 Q. Eventually just for final
12 administrative process?

13 A. They would be filed in Internal
14 Affairs.

15 Q. Did there come a time where you
16 were getting back complaints, I mean, files
17 from the Commissioner's office that indicated
18 whether in fact they were approving your
19 findings or your recommendations?

20 A. Yes, though for the most part
21 though I wouldn't look at those cases, you
22 know, when they came back in, the civilian
23 staff would just file them.

24 Q. Because they were already closed
25 cases?

1 Caldarelli

2 A. Right.

3 Q. Did they ever flag anything for
4 you where, again, whether you would have
5 been reversed, like, again, where you made
6 specific findings and the Commissioner or
7 somebody had reversed you or overturned you?

8 A. They would not necessarily bring
9 that to my attention; no. Occasionally I
10 would become, you know, become aware of
11 something like that, but it was not on a
12 regular basis. I suppose they weren't
13 really obligated to tell me, you know, they
14 were bosses, if they wanted to overrule me,
15 they could.

16 Q. Okay.

17 When Chief Meehan made that
18 comment, I mean, did you feel like they were
19 trying to intimidate you or the conversations
20 with Chief White?

21 A. White?

22 Q. Was it White? I'm sorry.

23 A. White never tried to intimidate
24 me.

25 Q. No. No. But, I mean, White I

1 Caldarelli

2 think passed the message that there were
3 others, he tried to alert you that there
4 were others --

5 A. He did that as a friend. White
6 and I were friends for a long time.

7 Q. Okay.

8 A. He was -- he never attempted to
9 get me to do anything that I considered wrong.

10 Q. But that comment by Meehan, did
11 you feel that that was an attempt to
12 intimidate you?

13 A. Well, I think it was sort of I
14 guess what you could call a Sicilian
15 message.

16 Q. I'm not sure how to treat that.
17 What do you define -- I don't know if there
18 are any Italians in the room.

19 A. I am.

20 Q. Besides you. But what do you
21 do, sleep with the fishes? I don't know.

22 A. Precisely.

23 Q. That's my only reference to
24 Sicilian message.

25 So was that an attempt to

1 Caldarelli

2 silence you?

3 A. Yes. As another example, like I
4 said, a friend of mine who was of like mind
5 once told me that someone else had told him
6 are you interested in Internal Affairs
7 during my tenure there, because they're
8 thinking about replacing Caldarelli, and I
9 think it was with the full knowledge that
10 this friend of mine was going to disclose
11 that to me and attempt to influence my actions.

12 Q. Did you feel your job security
13 was at risk or your command?

14 A. The command, absolutely. As a
15 matter of fact, I was surprised it took them
16 as long to get rid of me as it did.

17 Q. Because you said this conversation
18 with Meehan was like in 2013 and it was a
19 year later that you were finally reassigned?

20 A. Yeah, and I'm not sure of the
21 date on that, but I think it's fair.

22 Q. More or less.

23 A. Yes.

24 Q. Did they give you any indication
25 that if you didn't, I don't know, you know,

1 Caldarelli

2 stop your practice of substantiating
3 complaints that you would be transferred out
4 or reassigned?

5 A. No. No.

6 Q. Was this just more of an
7 internal feeling that you had?

8 A. Well, based upon what, you know,
9 what I was hearing from people, it was, you
10 know, I mean, it was abundantly clear, you
11 know, but frankly the conditions that
12 existed there frankly when I was transferred,
13 although I felt it was wrong, it was a
14 relief.

15 Q. Do you have any regrets about
16 your actions or behavior while commanding
17 officer?

18 A. Not a one.

19 Q. Would you change anything that
20 you did back then?

21 A. No.

22 Q. Did you have discussions again
23 with your XO at that time about what was
24 going on or the conversations or comments
25 with you?

1 Caldarelli

2 A. Yes.

3 Q. And what was his -- what was
4 your XO's -- did he share your sentiment in
5 terms of what was going on?

6 A. Yes. Joe was a decent, honest man.

7 Q. Okay.

8 Did he also feel his -- I guess
9 was his position I guess as your XO
10 intertwined with your command or --

11 A. No. As a matter of fact, I was
12 shocked when they transferred him out the
13 same day that they did me.

14 Q. So you were both transferred out
15 the same day?

16 A. Yes.

17 Q. Why is that unusual?

18 A. Well, I mean, you remove a CO,
19 that causes a certain amount of disruption,
20 and if I can harken back, when I went into
21 Internal Affairs, I relied very heavily on
22 Joe because he had a lot of institutional
23 knowledge, he had been there for a while and
24 he was invaluable.

25 Q. To make the transition smoother

1 Caldarelli

2 for the new commander?

3 A. Yes. So you remove both at the
4 same time, you know.

5 Q. Okay.

6 Do you still keep in contact
7 with your former XO?

8 A. Joe? No. No. Actually I've
9 seen him -- he came to my father's funeral
10 when my father died. I don't know if I've
11 seen Joe since then.

12 Q. Okay.

13 And when was that?

14 A. January.

15 Q. My condolences.

16 A. Thank you.

17 Q. Did he ever express again any
18 fears about the job or the work that you
19 were doing?

20 A. Yes.

21 Q. What, if anything, did he say to
22 you?

23 A. He said, you know, they don't
24 like this, they're not going to, you know,
25 they're not going to take kindly to this.

1 Caldarelli

2 Q. When he was referring to they,
3 who was he referring to?

4 A. The upper echelon of the police
5 department.

6 Q. The three individuals you
7 mentioned, Madigan, Meehan and Burke?

8 A. Yeah. I think he might have
9 been including the entire upper echelon.

10 Q. Did you feel you were being
11 treated unfairly by, you know, by the work
12 that you were doing there in terms of, you
13 know, you were running the unit as you
14 thought appropriate?

15 A. Yes.

16 Q. Why did you think you were being
17 treated unfairly?

18 A. Well, I felt certainly that
19 there was a good possibility that not only
20 was I going to be transferred, but I
21 realized that my career was over, that there
22 was virtually no prospect for anything more
23 for me.

24 Q. Meaning that it was unlikely
25 that you would be considered for further

1 Caldarelli

2 consulted an attorney.

3 Q. Did you consult with an
4 attorney --

5 A. Yes.

6 Q. -- in terms of what was
7 transpiring?

8 A. Yes. And I was and still am
9 represented by one. I had discussed this
10 matter with other parties. I don't care to
11 really get into much detail more than that.

12 Q. You never took any I guess
13 formal action in terms of either filing a
14 complaint internally with Suffolk County
15 Police?

16 A. No.

17 Q. Or the County?

18 A. No.

19 Q. Or the Human Rights Commission
20 or some type of agency as that nature?

21 A. My desire was to be left alone
22 to do the job the way I saw fit, and if they
23 couldn't do that, transfer me.

24 Q. Did you ever document, you know,
25 I guess any of this like the treatment you

1 Caldarelli

2 were receiving or your complaints or your
3 perceived mistreatment I guess for lack of a
4 better word?

5 A. Well, I have one report that I
6 think I mentioned earlier where a chief had
7 basically overruled my findings, and I think
8 that the tone and tenor of that is very
9 illustrative, but did I keep a log? No.
10 Actually -- I regret that I didn't, but Joe
11 Capolino had often urged me to do so, but
12 quite frankly, I was up to my neck in work
13 just trying to run Internal Affairs, let
14 alone documenting things like that.

15 Q. Did you ever like I guess in an
16 exchange, was there, I don't know, was
17 e-mail used or letter, you would write an
18 internal memo, you know, disputing whatever
19 their characterizations of anything or their
20 treatment, or their characterization of your
21 work or how you sustained cases?

22 A. There was never anything written
23 that I know of.

24 Q. The report that you mentioned
25 that I guess you thought was indicative, was

1 Caldarelli

2 this something you kept a copy of?

3 A. Yes.

4 Q. And which case or complaint was
5 this one?

6 A. Forgive me, I'm not sure, there
7 might be some ongoing investigations in the
8 matter and I'm reluctant to --

9 MS. O'DONNELL: I think this is
10 the --

11 Q. Is this related to the one we've
12 referenced earlier?

13 MS. O'DONNELL: Yes. That's my
14 understanding, that there is --

15 A. Yeah.

16 MS. O'DONNELL: -- quite
17 possibly a pending criminal
18 investigation.

19 MR. PEREZ: Okay.

20 MS. O'DONNELL: So I just
21 instructed the witness not to identify
22 the case.

23 MR. PEREZ: Okay.

24 Q. And as far as you know, this
25 potentially may still be an active

1 Caldarelli

2 investigation with either the police or the
3 DA's office, to your knowledge?

4 A. No, I don't think it is the DA's
5 office.

6 Q. But it still may be active
7 within the police department?

8 A. No. Again, I -- please forgive
9 me, I don't want to do anything that might
10 compromise anything else.

11 MR. PEREZ: Counsel, if you and
12 the County are aware of the report that
13 he's referring to, I would ask -- I'm
14 going to call for production of that
15 and we will reduce it to writing. To
16 the extent as you've provided redacted
17 copies of other such reports, I'm going
18 to ask that you provide that.

19 MS. O'DONNELL: Sure. Put it in
20 writing and I'll take it under
21 advisement like all the other requests.

22 MR. PEREZ: Okay.

23 Q. Do you know whether your former
24 XO, Capolino, did he keep any type of log or
25 report?

1 Caldarelli

2 A. Not to my knowledge.

3 Q. You mentioned again you thought
4 again that your career was at a standstill
5 because of the one case we talked about and
6 that you didn't change, that you received a
7 call, that you didn't change your
8 recommendation, but also that Burke had
9 mentioned or called about other cases. Were
10 there -- you talked about those other cases
11 where I guess you substantiated findings
12 where you had discussions with him that he
13 was concerned about?

14 A. It wasn't so much Burke.

15 Q. Was it more then the Commissioner?

16 A. Probably the next most significant
17 example would have been the Commissioner; yes.

18 Q. And you said the most significant.
19 What case was that that you're referring to?

20 A. That one I think I can discuss.
21 The O'Donnell case, the custody death case.

22 Q. The?

23 A. O'Donnell, the --

24 MS. O'DONNELL: The one that he
25 talked about earlier. He said he was

1 Caldarelli
2 confusing the name with my name.
3 MR. PEREZ: Oh, your name.
4 Okay.
5 MS. O'DONNELL: You may recall.
6 A. O'Donnell, O'Connell.
7 Q. I got you.
8 A. It was an in custody death.
9 Q. And forgive me, my brain is --
10 I'm not remembering what you mentioned --
11 certain things -- so tell me again what the
12 O'Donnell/O'Connell case was.
13 A. I think his name was Kenneth,
14 but I'm not sure. Again, a gentleman --
15 Q. Is this the one that you talked
16 about you testified?
17 A. I was deposed.
18 Q. You were deposed.
19 A. I didn't actually testify in
20 court, but I was deposed.
21 Q. Right.
22 A. A gentleman was arrested in the
23 1st Precinct suffering from bipolar disorder,
24 he was lodged in the precinct overnight.
25 There was an altercation bringing him to --

1 Caldarelli

2 when it was time to transfer him to court
3 the next morning and he ended up dead.

4 Q. And you were deposed, it was a
5 wrongful death suit I guess against the
6 Department --

7 A. Yes.

8 Q. -- or the County and you were
9 deposed in that.

10 A. Okay.

11 Q. For lack of a better word, I
12 guess you garnered a reputation of I guess
13 being tough or calling it straightly or
14 fairly as you saw when you were reviewing
15 cases; is that fair?

16 A. I believe that's why they
17 attacked me initially because when I was a
18 precinct DI, I wouldn't send cases up unless
19 they were done correctly.

20 Q. And they brought you in or
21 specifically it was your mandate to kind of
22 shape up Internal Affairs?

23 A. I think that's fair.

24 Q. Did you, as your -- I guess
25 during your tenure, did you ever feel like

1 Caldarelli

2 the investigators under your command were
3 not sharing or coming -- as forthcoming with
4 you as you thought they should have been?

5 A. No. Despite the fact that I
6 thought things had disintegrated between
7 myself and my superiors, I thought I had
8 fairly good rapport with the people who
9 worked for me.

10 Q. And I think you mentioned this
11 earlier, you still encouraged them to kind
12 of do their investigations and make their
13 findings, and if you agreed or disagreed,
14 that you would engage with them on it?

15 A. I always encouraged them, but at
16 the end of the day, it didn't matter,
17 because if I didn't like it --

18 Q. It wasn't going up.

19 A. -- I wouldn't sign it.

20 Q. Okay.

21 And just, again, going back to
22 did you ever have any conversations,
23 interactions with I guess Chief Madigan?

24 A. Yes.

25 Q. Relating to this, you know, your

1 Caldarelli

2 IAB, your finding of withholding or
3 substantiating complaints?

4 A. Yes. Actually there was the one
5 case, the one that I'm somewhat circumspect
6 about talking about, that was probably the
7 most salient example.

8 Q. Did that case involve members of
9 the detective squad?

10 A. The detective division; yes, sir.

11 Q. Yes. Okay. So that would have
12 come under within his purview?

13 A. Yes. It also, just to be fair,
14 it also involved people outside of the
15 detective division.

16 Q. Okay.

17 And so what did -- you said did
18 you have a direct conversation or interaction
19 with Madigan about that?

20 A. Yes.

21 Q. And when was that?

22 A. I think it was in July '14,
23 maybe late June perhaps.

24 Q. And was this a scheduled or
25 happenstance?

1 Caldarelli

2 A. It was something that he had
3 called me and he set a date, he said, Mike,
4 I need to discuss this case with you, please
5 come down to my office at such and such a
6 date.

7 Q. And did you in fact go and
8 report to his office?

9 A. I did.

10 Q. And what, if anything, did he
11 tell you about that case?

12 A. He actually said that he
13 disagreed completely with me, he felt that
14 the investigator who had initially
15 investigated the case got it right, he
16 thought the report was spot on, and
17 basically he wanted some changes made.

18 Q. Can you recall who the
19 underlying investigator in that case was?

20 A. Yes.

21 Q. And who was it?

22 A. Kelly Lynch.

23 Q. Kelly Lynch?

24 A. Yes.

25 Q. Is that Kelly, K-E-L-L-Y?

1 Caldarelli

2 A. Yes.

3 Q. And Investigator Lynch, when did
4 she come to Internal Affairs?

5 A. Prior to my time there.

6 Q. So she was already there when
7 you joined the squad?

8 A. Yes.

9 Q. Or took over as commander.

10 A. Yes.

11 Q. Did you indicate to Chief Madigan
12 why you thought, again, you made the

13 findings that you did or that the evidence
14 supported the conclusion that you drew?

15 A. Initially I did, then I stopped.

16 Q. Why did you stop? Was this
17 during the same conversation?

18 A. Yes.

19 Q. Why did you stop?

20 A. Because the chief had provided
21 me with a copy of his report in which he had
22 made voluminous notes which I felt just
23 illustrated the absurdity of his position.
24 Once I got full wind of the tone and tenor
25 of the conversation and saw what he had

1 Caldarelli

2 written, my sole mission became to get out
3 of that room with that document in my hand.

4 Q. And did he in fact give you that
5 document?

6 A. Yes.

7 Q. And this is something that he
8 had prepared in writing in advance of that
9 meeting?

10 A. It was my IAB cover, it was a
11 lengthy one, approximately nine pages from
12 what I remember. It was basically, for lack
13 of a better term, it became the case.

14 Q. Okay.
15 Your memo?

16 A. Case report; yes.

17 Q. And had he written or made
18 notations on it or criticizing whatever
19 finds you had made?

20 A. Considerable notations; yes.

21 Q. Did any of the notations that
22 the chief had done address like change facts
23 or was this changing your conclusions or, I
24 don't know, the inferences?

25 A. Deletion of material that I

1 Caldarelli

2 considered essential.

3 Q. Trying to change the narrative?

4 A. Yes. It was clearly -- some of
5 the information that he requested if I
6 removed -- if it be removed, yes, of course,
7 my conclusion wouldn't make a great deal of
8 sense, but. . .

9 Q. And you refused to do that?

10 A. I did. I agreed to make -- he
11 did make one or two grammatical changes, a
12 spelling change or two. That I had no
13 objection to. But the -- anything that
14 impacted the sum and substance of my findings,
15 I refused.

16 Q. And is that the copy of the
17 document that you said you kept or you kept
18 on file?

19 A. Yes.

20 MR. PEREZ: And I will reiterate
21 again that we will call for the
22 production of that document.

23 MS. O'DONNELL: Put it in
24 writing.

25 Q. Is that, as far as you know,

1 Caldarelli

2 part of the official case file now with the
3 chief's notations on it or was that just
4 something that he gave to you?

5 A. I doubt that very much.

6 Q. Would you be willing to share
7 that document?

8 A. I have no objection, sir.
9 However, again, I do fear that it might
10 compromise another matter, but I have no
11 personal objections. I'll show it to anyone
12 who asks me.

13 Q. Okay. I would ask you then if
14 you would share it with Ms. O'Donnell.

15 MS. O'DONNELL: Right. And I
16 also think that it's important to note
17 that this witness has stated that he
18 has a private attorney, so I think that
19 that private attorney should also be
20 part of this discussion.

21 MR. PEREZ: Well, I have
22 nothing --

23 MS. O'DONNELL: So we will take
24 it under advisement.

25 Q. Inspector, I leave it to you

1 Caldarelli
2 whether you want to consult with your
3 attorney. At least in terms of this
4 particular matter or litigation, Ms. O'Donnell
5 is the attorney of record for the County,
6 and I encourage you to show it, share it
7 with her.

8 MS. O'DONNELL: Right. And I
9 just want to state for the record that
10 obviously the scope of any federal
11 deposition is very broad, as you know,
12 the witness can be questioned about
13 relevant evidence or evidence that may
14 lead to relevant evidence. I think
15 that we're getting to a point now where
16 we're getting even beyond that. I'm
17 just making a statement for the record,
18 I'm not obstructing your questions at
19 all or instructing this witness not to
20 answer, but I do think we're getting
21 close to that.

22 MR. PEREZ: Okay. I appreciate
23 your professional courtesy,
24 Ms. O'Donnell. I beg to differ in
25 terms of whether this is relevant or

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Caldarelli

leading to relevant evidence. I think,
again, given the nature of the
investigation and the unexplained basis
for delays in this investigation, which
permeated an environment in which
Latinos were routinely being stopped
and robbed leads to questions about the
conduct of the Department it appears at
high ranking levels and the impetus or
motivation, so we can agree to disagree
about the relevance or leading to
relevant information, but --

MS. O'DONNELL: Fair enough.

MR. PEREZ: Fair enough. And I
think this might be a chance for a
quick break.

MS. O'DONNELL: Sure.

MR. PEREZ: Okay?

MS. O'DONNELL: Yes. How long?
About ten minutes?

MR. PEREZ: Yes. Actually
before we do this, I just have one last
question and then we'll take a break.

Q. I forgot something else I wanted

1 Caldarelli

2 A. No. Fallon remained in the
3 Police Commissioner's office.

4 Q. And Chief Webber actually
5 eventually retired?

6 A. He retired, he became the Police
7 Commissioner and then he retired I guess a
8 little over -- no, it was two years ago.

9 Q. And, again, going back to your
10 testimony again this morning where you
11 mentioned I guess having close to weekly
12 briefings or discussions with Commissioner
13 Webber, do you recall who else was part of
14 those meetings? Was Chief White part of
15 those meetings?

16 A. At times.

17 Q. At times. Were any of the other
18 chiefs that you mentioned, Fallon, Madigan,
19 Meehan or Burke?

20 A. Maybe once in a while Burke, but
21 it was rare.

22 Q. Was any support staff or, I
23 don't know, does the Commissioner have an
24 executive assistant or administrative
25 assistant present?

1 Caldarelli

2 A. No. No. Those are for the most
3 part myself and Webber, perhaps Mark White
4 on occasion, on rare occasions maybe, maybe
5 Burke.

6 Q. Were any notes taken, did you or
7 the Commissioner or anybody take any notes
8 or transcribe from those meetings?

9 A. You know, what I would sometimes
10 do is I would sometimes just write out things
11 to discuss with the Commissioner, you know.

12 Q. Bullet points or general
13 guidelines?

14 A. Right. It was usually
15 handwritten, so not really bullet points.

16 Q. Generally what would you do with
17 them, sir?

18 A. Frankly, sir, I don't know if
19 I -- Im pretty certain I don't have them
20 being that I'm retired now. Whether I got
21 rid of them, whether they're in a drawer in
22 my old office in IAB or in planning or the
23 Commissioner's office, I don't know.

24 Q. As far as you know, did the
25 Commissioner take notes on your discussions

1 Caldarelli

2 or --

3 A. I would say not really on a
4 regular or heavy basis. I don't remember
5 that; no.

6 Q. When you were reassigned from
7 Internal Affairs, was anyone besides you and
8 the XO also reassigned or transferred out at
9 that time?

10 A. Not to my knowledge. If it was
11 though, I think it would have been purely
12 incidental.

13 Q. Okay. Coincidental?

14 A. Yes.

15 MR. PEREZ: Let's take our
16 break.

17 MS. O'DONNELL: Sure.

18 MR. PEREZ: I have 3:00, so
19 3:10.

20 MS. O'DONNELL: Sounds good.

21 (Whereupon, a brief recess was
22 taken.)

23 CONTINUED BY MR. PEREZ:

24 Q. Inspector, during your tenure at
25 Internal Affairs, were you aware of any